



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,593	03/30/2004	Bernard Andreas	021629-002500US	5895

20350 7590 01/13/2009

TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO, CA 94111-3834

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/13/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

***Election/Restrictions***

1. Newly submitted claims 1-18, 21, 22, 37-52 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly entered claims require an invention that has an expandable member for expanding the first and second stent *and* a balloon for radially expanding the side branch after the first stent is delivered. However the originally claimed invention did not require the additional structure of a balloon, but rather used the expandable member for dilating the lesion without a stent disposed thereon (see claims 11 and 22).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-18, 21, 22, 37-52 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Response to Amendment***

2. The amendment filed on 10/03/08 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the originally elected species did not require the additional structure of the balloon for expanding the lesion without a stent but rather required the expandable member.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH HOUSTON whose telephone number is (571)272-7134. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/814,593  
Art Unit: 3731

Page 4

/E. H./  
Examiner, Art Unit 3731

/Todd E Manahan/

Supervisory Patent Examiner, Art Unit 3731